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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,388	07/23/2003	Kevin L. Parsons	89697	9508
24628	7590	03/23/2006	EXAMINER	
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606			NICOLAS, FREDERICK C	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,388

Applicant(s)

PARSONS, KEVIN L.

Examiner

Frederick C. Nicolas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12, 13, 16-34, 37, 38 and 41-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-34, 37, 38, 41-45 and 48 is/are allowed.
- 6) ☒ Claim(s) 1-9, 12, 13, 16-19, 21, 23, 25, 46 and 47 is/are rejected.
- 7) ☒ Claim(s) 20, 22, 24 and 49 is/are objected to.
- 8) ☒ Claim(s) 1-9, 12, 13, 16-34, 37, 38 and 41-49 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/1/2004.
- ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. 2/24/2006.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group II, Species B, claims 1-1-9,12-13,16-34,37-38,41-49 in the reply filed on 2/10/2006 is acknowledged. The traversal is on the ground(s) that all three groups are related and efficiency of the Patent Office would be promoted by examining Group I, Group II and Group III. This is not found persuasive because the three Groups of claimed invention are clearly not related in terms of their modes of operation. For example, in the elected Group, "the outer planar exposed surface of the nozzle plate is made of a non-reflective material". On the other hand, in Group I, "an outer planar exposed surface of the nozzle plate is made of a light-reflective material". Clearly, there exist unrelated features among the species of claimed invention, which will require a separate search area for each species/Group. The requirement is still deemed proper and is therefore made FINAL.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show elements (10) and (13) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as

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"amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5,9,12,17-19,21,23,25,46-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Ames 5,901,723.

Ames discloses a tactical defense device (col. 1, ll. 49-54), which comprises a dispenser having a tubular body (2) having a first end (see Figure 1A for location) defining a forward portion and an opposite second end as seen in Figure 1A, the tubular body adapted to receive a pressurized spray cartridge (7), a nozzle plate (70) having a discharge orifice supported within the forward portion, a tubular connector (3,5) coupling

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having a first end adapted for connection to the second end of the dispenser and an opposite second end, the connector coupling housing a switch mechanism (14), wherein the forward portion of the dispenser is enlarged as seen in Figure 1A, the first and the second ends of the dispenser define annular threads as seen in Figures 1A and 2A, an annular retainer/external seal (4) adapted for connection to the first end of the dispenser, the annular retainer includes an interior thread as seen in Figure 7, the outer planar exposed surface of the nozzle plate is made of a non-reflective material as seen in Figure 9, a plunger actuator (6), an actuator button (14), a retainer leg (20).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ames 5,901,723 in view of Chen 5,446,985.

Ames has taught all the features of the claimed invention except that the dispenser includes a slidably insertable sleeve. Chen teaches the use of a dispenser having a slidably insertable sleeve (40) for holding a pressurized spray cartridge (41) as seen in Figure 1.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Chen's sleeve around Ames' cartridge as taught by

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Chen in (col. 4, ll. 33-41), in order to provide an electrically isolating cylinder around the cartridge.

7. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ames 5,901,723 in view of Parsons et al. 6,283,609.

Ames has taught all the features of the claimed invention except that the dispenser has an annular cover. Parsons et al. teach the use of an annular cover sleeve (20) for a tubular body (204) (col. 12, ll. 4-11).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the annular cover sleeve of Parsons et al. onto Ames' cartridge as taught by Parsons et al. in (col. 12, ll. 4-11), in order to provide an additional seal against the migration of moisture and debris between switch assembly (14) and the tubular body.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ames 5,901,723.

Ames has taught all the features of the claimed invention except that the outer planar exposed surface of the nozzle plate is a dark, buff color.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ames' outer nozzle plate to be a dark, buff color, in order to color coded the nozzle plate for easy installation and removal.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ames 5,901,723.

Ames has taught all the features of the claimed invention except that a plurality of interchangeable nozzles.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to duplicate Ames' nozzle to have a plurality of them, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. As per MPEP 2144.04

Allowable Subject Matter

10. Claims 26-34,37-38,41-45,48 are allowed.
11. Claims 20,22,24,49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Banks et al. 5,529,215, Cellini et al. 6,786,368, Roberts 5,086,377, Hollis 5,420,766, Stevenson et al. 4,446,990, Parsons 5,839,624, Pierpoint 5,842,602, Teig et al. 5,683,168, Cranford et al. 5,629,679, Oppenheimer 3,583,609 and Stern et al. 5,934,518 disclose other types of device.

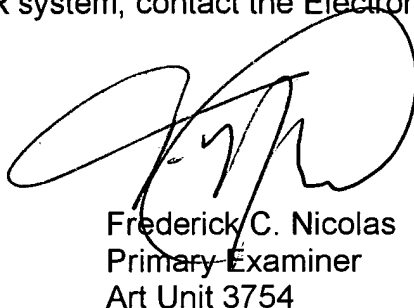
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar, can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN
February 24, 2006



2/24/06

Frederick C. Nicolas
Primary Examiner
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